

## TELL THE FCC WHAT YOU THINK ABOUT LOCAL MEDIA!

Fall 2004



The FCC has initiated a proceeding to evaluate whether broadcasters are serving local needs. Now is a good time to put down on paper how you think local issues are being covered and submit it to the FCC. When you are done, you can submit these to the FCC either via mail or via the Internet. In addition, if you don't want to write something long, you can send a simple email to the FCC. Instructions for communicating with the FCC are below.

### Exploring Localism in Your Community

Here are some suggestions that will help you think about what to say to the FCC. These are ideas to get you started, not requirements, you may come up with important things to add. In addition, the FCC issued a long document called a Notice of Inquiry asking many questions about localism. A summary of it is attached if you are interested. More information is on the FCC's web site at <http://www.fcc.gov/localism/>

- ✍ Describe the media outlets in your area. How many daily newspapers, how many television stations, how many radio stations? How big are they? How many are owned by the same company? For resources to find out, look at: your local yellow pages, local newspaper television and radio listings, or your local library. On the Internet, you can use the Center for Public Integrity's web-based media tracker at [www.openairwaves.org](http://www.openairwaves.org); the United Church of Christ's Media Empowerment Project has resources for investigating your local media, [www.mediaempowerment.org](http://www.mediaempowerment.org).
- ✍ There are several ways to analyze the adequacy of coverage in your area. You can pick one day or one week and monitor it, for example. If you do, you can choose some of these criteria to monitor. Or you can describe the situation in your city or town using these questions as a guide.
  - ✍ What news programs are broadcast, local and national?
  - ✍ What non-news syndicated shows vs. locally-produced shows are broadcast outside of prime-time?
  - ✍ How many, what time, and what topic are Public Service Announcements aired?
  - ✍ Describe whether you see any indecent or obscene content in broadcasts.
  - ✍ Describe the racial, ethnic and cultural diversity of on-air newscasters and actors, station employees. Describe whether any languages other than English are served.
  - ✍ Do you see any advertisements for local elections or any news coverage or local elections (including mayor, town council, school board, board of supervisors, member of Congress). For more resources on evaluating election coverage, go

to Alliance for Better Campaign's website at: <http://bettercampaigns.org/scorecard/>.

- ✍ On television, assess whether the station complies with the FCC's regulations on children's television educational requirements (for information about Children's Television obligations, see <http://www.fcc.gov/parents/childrenstv.html>). Generally, television stations must broadcast three hours per week of appropriate children's programming.
- ✍ On radio, describe the types of music that is played and whether any of is by local musicians or reflective of local culture.
  
- ✍ Each broadcaster is supposed to keep a list of issues in their communities so that they can cover those issues. You can look at the list! You can visit your local television broadcasters and see whether you think their list is accurate. For information about how to do this, see the FCC's web site <http://www.fcc.gov/eb/broadcast/pif.html> and Media access Project's web site, <http://www.mediaaccess.org/fcc/tutorial.html>.
  
- ✍ Describe your particular experiences with local media. Have you tried to get public service announcements on the air? Have you tried to get reporters to cover a particular issue? Are issues of importance to people of color adequately addressed?
  
- ✍ Would you like the FCC to hold a hearing in your area to learn about your community? You can send an email requesting a hearing via the Free Press web site. <http://www.freepress.net/rules/petition.php>

## How to File Your Comments at the FCC

To file a document that you wrote:

***You should file your comments before December 1, 2004, but if you file before March 2005 the information will still be useful.***

1. Go to the Electronic Comment Filing System page at the FCC:  
[http://gullfoss2.fcc.gov/prod/ecfs/upload\\_v2.cgi](http://gullfoss2.fcc.gov/prod/ecfs/upload_v2.cgi)
2. Enter 04-233 (the docket number) in the "proceedings" blank.
3. Fill in the rest of the blanks. Put your organization's name or your name in the "Name of Applicant/Petitioner" blank. If you are with an organization, you can put your name in the "Attorney" blank, even if you are not an attorney.
4. Complete all the rest of the information. Completing this information will make it easier for others to find it when they look in the FCC's records.
5. Next, go down and verify that "Document Type" says "comments" (it should default to this entry). Do not check "ex parte/late filed" unless your comments are late (filed after December 1, 2004).
6. Go to the next, green, block. The file description is filled in for you. Click on the browse button to select your file off of your computer. Next, pick a file type off the drop-down menu. If you have a Microsoft Word file, pick Microsoft Word, if you have a pdf file, pick Adobe Acrobat PDF.
7. Click on the "Send Attached File to the FCC."
8. The next screen will thank you for your comments, and provide you with a confirmation number. Print it out and save that as proof you filed.

To mail your document:

Commercial overnight mail, EXCEPT United States Postal Service:  
Marlene H. Dortch, Secretary  
Federal Communications Commission  
Office of the Secretary  
9300 East Hampton Drive  
Capitol Heights, MD 20743

All other mail, INCLUDING United States Postal Service Express Mail, Priority Mail, and First Class Mail:  
Marlene H. Dortch, Secretary  
Federal Communications Commission  
Office of the Secretary  
445 12th Street, SW  
Washington, DC 20554

How to send a simple email:

The FCC has set up a simplified system to take email comments. To use this system, which is called "ECFS Express," go to: <http://gulfoss2.fcc.gov/ecfs/Upload/> and click on the "localism docket" option.

**SUMMARY OF THE FCC'S NOTICE OF INQUIRY  
IN THE MATTER OF BROADCAST LOCALISM**



The FCC released a Notice of Inquiry on July 1, 2004 asking for input on how well broadcasters are serving the interests and needs of their local. **Comments are due on November 1, 2004 and Reply Comments are due on December 1, 2004.** The proceeding has the docket number MB Docket No. 04-233. A copy of this NOI may be obtained from the FCC's Localism Task Force website at: <http://www.fcc.gov/localism/>

**FCC Introduction**

At the heart of the Communications Act is the principle that radio and television stations receive free licenses for the purpose of serving their local communities. In order to further the goals of localism, the Commission has taken steps such as establishing the Localism Task Force to gather empirical data on broadcast localism and to advise the Commission on steps it should take to further this goal. Additionally, the Commission previously sought comments on individual proposals intended to facilitate localism. The Commission initiated this Notice of Inquiry in response to concerns from the public that broadcast stations may still be failing to meet the needs of their local communities.

**Rules Addressing the Needs of Local Communities**

In addition to seeking general comments from the public regarding television and radio broadcasting within their local communities, the Commission seeks comments on the following specific areas:

Communication with Communities: In 1999 and 2000, the Commission launched several proceedings soliciting comment on what specific requirements it should mandate for television broadcasters as part of the transition to digital television. The Commission seeks comments on whether it should take additional steps to ensure that programming is responsive to the problems, needs, and interests of communities before the digital transition is complete, or whether market forces sufficiently ensure that television and radio broadcasters air programming responsive to the needs of their communities.<sup>1</sup>

Nature and Amount of Community Responsive Programming: The Commission seeks comments discussing whether a requirement for "local" programming serves the goal of ensuring that broadcasters are serving their communities' needs and interest. The Commission inquires as to what should qualify as "local" programming. Alternatively, the FCC asks whether the incentives inherent in market forces are sufficient to encourage broadcasters to air community-responsive programming, such that the Commission should rely on market forces alone to encourage broadcast stations to air community-responsive programming.<sup>2</sup>

Political Programming: In the interest of encouraging political and civic discourse, the Commission seeks comments on its authority to encourage voluntary coverage and the extent to which the current

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<sup>1</sup> See *Notice of Inquiry in the Matter of Broadcast Localism*, 2004 WL 1469366 ¶¶ 9-11 (2004) ("Localism NOI").

<sup>2</sup> *Id.* at ¶¶ 12-18.

rules should be revised to facilitate such programming.<sup>3</sup>

Underserved Audiences: The Commission seeks data and trends evidencing the extent to which broadcast stations currently serve minority communities, particularly non-English language communities. The Commission also requests comments on the best way to promote coverage of issues important to minority communities.<sup>4</sup>

Disaster Warnings: The Commission is considering a requirement that broadcasters make their facilities available to local emergency managers, but seeks comments on whether voluntary arrangements are sufficient. The FCC seeks comments on whether digital technology should be used to enhance warnings and to what extent do broadcast stations currently make use of digital technology.<sup>5</sup>

### **Network-Affiliation Rules<sup>6</sup>**

The Commission's rules govern the relationship between television networks and their affiliated stations. These rules are designed to promote localism by ensuring that stations themselves retain the power to make programming decisions. Despite the existing rules, the Commission is concerned that affiliates are not sufficiently independent. Affiliates' claim that networks are hindering their ability to preempt network shows for local programming, allege that local affiliates are unable to refuse to broadcast network programming that is indecent or unsuitable for an affiliate's local community, and allege that networks are inhibiting affiliates' use of their own digital signals for local programming.

### **Payola, Voice Tracking and National Playlists**

Payola: The Future of Music Coalition previously commented to the FCC that a *de facto* form of payola exists in business practices, where independent promoters act as a liaison between the radio stations and the record labels so that labels do not pay the stations directly to play their songs in violation of current laws. The Commission recognized that payola-type practices are inconsistent with localism because they cause radio stations to air programming based on their financial needs at the expense of their communities' needs. The Commission would like more information on the frequency of these practices, the sufficiency of the current disclosure requirements, and comments on whether or not payola-type practices comply with the FCC's disclosure requirements and sponsorship identification regulations and whether the Commission currently has the authority to regulate in this area.<sup>7</sup>

Other Sponsorship Identification: The Commission's rules require stations to disclose whether broadcast materials is paid for and by whom. The Commission seeks comment on the adequacy of the existing sponsorship rules. Additionally, the Commission has received reports that guests pay for their appearances and seeks comments on the prevalence of this practice, the impact of this practice on stations' tendencies to serve their financial interest at the expense of the community interest, whether these payments comply with the existing sponsorship identification rules, and how and

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<sup>3</sup> *Id.* at ¶ 19.

<sup>4</sup> *Id.* at ¶¶ 24-26.

<sup>5</sup> *Id.* at ¶¶ 27-29.

<sup>6</sup> See *Localism NOI*, 2004 WL 1469366 at ¶¶ 30-32.

<sup>7</sup> *Id.* at ¶¶ 33-35.

whether the Commission should eliminate these practices all together.<sup>8</sup>

Voice-Tracking: Voice tracking refers to the practice of importing “popular out-of-town personalities from bigger markets to smaller ones, customizing their programs to make it sound as if they DJs are actually local residents.” The American Federation of Television and Radio Artists alleged that this practice of not using live broadcasts or hiring local employees hurts the station’s connection local community. The Commission does not currently have rules that directly addresses this practice and seeks comment the following questions: What steps are necessary to preserve localism? What is the FCC’s statutory authority to adopt such regulations?<sup>9</sup>

National Playlists: The Future of Music Coalition commented to the FCC that national playlists hurt the localism effort by denying talented local artists access to airtime. The Commission seeks comment on the prevalence of national playlists and their impact on localism. In particular, the Commission inquires about to what extent the use of playlists prevent local stations from making independent decisions about airplay, and thereby diminishes the diversity and types of music heard on the radio, such as music performed by local artists. The Commission seeks input on what steps, if any, the Commission should take in this area to protect localism.<sup>10</sup>

### **License Renewals<sup>11</sup>**

Prior to the passage of the Telecommunications Act of 1996, the Commission granted licenses for three years. Every three years, when applicants had to renew their licenses, competing applications could be filed against the existing licensee. Where competing applications were filed, the Commission undertook a comparative analysis between the applications to determine which licensee would best serve the public.

The Telecommunications Act eliminated the comparative renewal process and increased the term of licenses to eight years. The Commission now only accepts competing license applications if the renewal application fails to meet the statutory standard.

The Commission is concerned that the current process does not sufficiently examine whether a licensee has served the public interest and seeks comment on the adequacy of the current renewal process, the potential need for audits of broadcasters’ public files, and the scope of the FCC’s authority to evaluate a station’s service of the public interest. Additionally, the Commission questions whether the current interval between renewals is too long and whether the Commission should either shorten the period or conduct a mid-term review of the license fulfillment of their public interest obligations.

### **Additional Spectrum Allocations<sup>12</sup>**

The Commission has recently taken steps to promote LPFM, such as opening a filing window for settlement agreements, passing change amendments that eliminate some of the conflicts between LPFM applications, and waiving processing rules that made it difficult to resolve conflicts between applications. The Commission invites comments on what additional steps it could take to promote LPFM. In particular, the Commission would like to harmonize its process for licensing FM translators

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8 *Id.* at ¶¶ 36-37.

9 *Id.* at ¶ 38.

10 *Id.* at ¶ 39.

11 See *Localism NOI*, 2004 WL 1469366 at ¶¶ 40-42.

12 *Id.* at ¶¶ 43-45.

and LPFM stations to enhance localism and seeks comment on what effect its rules have on localism. Additionally, the Commission seeks comment on how its policies for translators affect the availability of spectrum for LPFM, and what changes it should make to the rules to promote entities with a local presence or local programming.

## **Conclusion**

Although this Notice of Inquiry identifies several subjects that are of particular interest to the Commission, the NOI invited comments on any subject relevant to the desired end of ensuring that broadcasters fulfill their obligations to serve local communities.<sup>13</sup>

Commissioners Powell, Martin and Adelstein wrote separately to express their individual concerns. Commissioner Martin encourages the Commission to clarify its rules protecting an affiliate's ability to refuse to air network programming when the licensee believes the network programming is unsuitable for the local community. Commissioner Copps wrote to express his view that it is impossible to divorce localism from ownership. Commissioner Adelstein encouraged commenters to offer any and all thoughts on steps the Commission can take to better promote localism and further the public interest.<sup>14</sup>

## **How To Participate**

Interested parties can review filed comments or can themselves file comments through the FCC's electronic comments filing system (ECFS), at <http://www.fcc.gov/cgb/ecfs/>. (For ECFS purposes, the Docket Number is just 04-233.)

Anyone can file a comment using nothing more than a standard web browser like Netscape or Internet Explorer. You do not have to be a lawyer or even a U.S. citizen. The Media Access Project maintains a resource page explaining the FCC and its filing process, <http://www.mediaaccess.org/fcc/>.

*Written by Nadia Abadir*

*Media Access Project Legal Intern*

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<sup>13</sup> *Id.* at ¶ 46.

<sup>14</sup> *See Localism NOI*, 2004 WL 1469366 (statements of Michael K. Powell, Kevin Martin, Michael J. Copps attached).